SENATE FISH AND GAME

EXHIBIT NO. 12

DATE 2-20-07

BILL NO. 5B 17

DATE: February 14, 2007

TO: Senator Joe Tropila, Chair, Senate Fish and Game Committee

RE: Senate Bill 17

FROM: Ed B. Smith, Dagmar

Senator Joe Tropila and committee members. I am sending this and hope you have time in your busy schedules to review it and save time at the February 20 hearing. These are some of the questions I asked in a letter I sent to FWP Director, Jeff Hagener, dated December 12, 2006 which I feel was not answered (copy enclosed).

- 1. Did FWP Wildlife Administrator Don Childress send a copy of the Upland Game Bird Enhancement (UGBE) and ARM rules to all field personnel after its passage in 1987?
- 2. Why would the PL/PW council sponsor legislation to terminate the 15 % funding for pheasant release saying it was needed for habitat when FWP had a \$2.8 million unspent balance in the UGBHE account on July 1, 2006?
- 3. Were 65,827 pheasants released at a cost of \$197,480 in violation of ARM rule 12.9.602?
- 4. Did UGBHE program administrator John McCarthy and attorney Jack Lynch make a \$50,000 settlement to the Sandovals and Sorensons? And why?
- 5. Was FWP's Ron Aasheim wrong when he wrote a letter to Rep. Jim Shockley on your behalf stating that the Russells contributed \$76,634 of their money to the \$252,526 Russell contract?
- 6. Did you state at the EQC hearing on September 13, 2002 that "FWP likes this program and believes it has benefits, however the FWP staff doesn't have the necessary time for the program, that's a reality."?
- 7. Didn't the UGBHE CAC, which you appointed, at their final meeting on June 23, 2003 recommend FWP hire an additional 6 staff members and that request be presented to the 2005 Legislature? I have a letter from Doug Sternberg, Legislative Fiscal Analyst, dated October 4, 2006, stating no such request was made.
- 8. A statement was made by FWP that they will be installing the <u>newly designed</u> signs on each of the active contracts sites by September 1, 2006. I have driven hundreds of miles in Region 6 and 7 and taken dozens of pictures beginning in late October through February and found only 1 of those signs. I also have pictures that show that even the Charlie Russells, contracted for \$353,000, have only the one obsolete sign.
- 9. Did former FWP UGBHE Administrator, John McCarthy, commit malfeasance of office?
- 10. Would the FWP Wildlife Administration explain what has been accomplished after spending \$10,238,880 of UGBHE funds, when the number of upland game bird licenses sold in 1987 was 40,600 and when these same licenses in the next 18 years averaged 38,435 each year.

FWP has done a good job of covering up on the way UGBHE funds have been spent. The sportsmen should be outraged on the little that has been accomplished, or they should be. That is why in my December 12, 2006 letter I stated, "I feel the next step to resolve this issue is for the FWP Director, Governor Schweitzer, FWP Commission, the EQC which has oversight responsibilities, and elected officials by their oath of office, join me in requesting an audit by a certified public accountant." I found out later that only the Legislative Auditor has the responsibility to audit state agencies.

I feel this is necessary to comply with the Montana Constitution which states all agencies of State Government have a duty to faithfully execute the laws enacted by the Legislature.

Mr. Jeff Hagener FWP Director Helena, Mt 59620

Dear Jeff:

I want to begin this letter so you and others will know that it was I who sponsored the legislation that created the Upland Game Bird Habitat Enhancement program (UGBHEP), and it was I who brought the information I had gathered to the Environmental Quality Council (EQC) which have oversight responsibilities of FWP activities on September 12, 2000 questioning the way FWP was spending UGBHE funds. It was from that information that the EQC members voted unanimously for a legislative audit. That audit was completed in December 2000 on 10% of the contracts negotiated by FWP with landowners.

Since then I have spent hundreds of hours and thousands of dollars gathering additional information which I provided in a letter dated May 5, 2006 to FWP UGBHE coordinator Rick Northrup with supporting documents verifying the content of that letter. Copies of that letter were sent to Governor Brian Schweitzer, FWP commission chairman Steve Doherty, legislative auditor Scott Seacat, EQC Director Todd Everts, LFA analyst Barbara Smith, three member council Craig Roberts and several legislators. If anyone want to review that additional information contact one of those mentioned above. You were the one who responded to that letter to me dated June 21, 2006, not Rick Northrup. (Copy enclosed.)

I intend to respond to that letter and also the one you sent to Senator Greg Barkus in reply to the letter he sent you dated September 26, 2006 (copy enclosed). Senator Barkus in his letter to you stated, "Please provide me a copy of your response to the five questions asked by the legislative auditor and your thoughts or interpretation of your actions of terminating of the work of the three member council". Senator Barkus went on to say, "I would appreciate a substantive reply to ease my mind". Jeff, I was absolutely shocked by your response when I received a copy of the letter you sent to him. When will you and your staff in Helena change your attitude? As I stated in my May 5, 2006 letter, FWP feels that they can say and do anything they please and do not have to answer to anyone, and now I find the question is who or what to believe.

Your letter to Senator Barkus is a perfect example of that which I intend to point out. Have you forgotten the content of my May 5, 2006 letter and the supporting documents all based on facts? If you have misplaced it, I am enclosing another because the false statements you make to Senator Barkus were all addressed in that letter including the five questions that the legislative auditor referred to.

Questions 1 & 2. You stated Don Childress does not send the MCA statute books or ARM books to field administrator assistants in law enforcement divisions. In a letter to wildlife administrator Don Childress dated April 11, 2002 I asked him if copies of the statutes and ARM rules were provided to all department employees. He stated a copy of the law and ARM rules are provided to all department employees requesting such. How would the FWP field personnel even know if a law was passed by the Legislature? Wasn't it Don Childress's obligation as Wildlife Administrator and Former Director Pat Graham's obligation to see that all FWP personnel were notified of the new law and rules that were adopted by FWP to implement that law? Just like you should be held accountable after your appointment as Director in 2001. You said, "We can find no record of any regional supervisor expressing concern about not receiving the books". I am again enclosing a portion of a letter I received from FWP biologist Greg Risdahl dated August 18, 2000 regarding the July 31, 2000 meeting which I had at Region 7 headquarters in Miles City. Present were Region Supervisor Don Hyppa, Biologist John Ensign, Chief Warden Bryce Christensen, and biologist Greg Risdahl who negotiated the two Russell contracts.

This is what Mr. Risdahl said. "As I already explained during our meeting on July 31, 2000, we MFWP biologists did not realize that such a document was required until you pointed this out to Don, John, Bryce and I. This is one area where MFWP evidently needs to "get up to speed" to comply with all the requirements of the UGBHE legislation". I am also enclosing a letter dated July 31, 2000 which I received from Don Hyppa confirming the conversation we had at the meeting. This is 13 years after the law was passed and millions of dollars of UGBHE funds were spent. The same thing happened that same afternoon when I met in Region 6 headquarters in Glasgow with Region Supervisor Jim Satterfield, biologist Pat Gunderson and Herald Wentland, wildlife specialist. When I told them about the UGBHE law and ARM rules, Harold Wentland said the only information he received from Helena was the 1992 yellow cooperator's guide to releasing ring-necked pheasants as part of the UGBHE program.

I know Mr. Wentland would <u>never</u> have allowed the release of 65,827 pheasants at a cost of \$197,480 over a three year period all in violation of ARM rules 12.9.602 requirements. Those rules state, "All birds must be 10 weeks of age, all releases must be on land open to public hunting, all release sites must contain 10% winter cover and 25% food sources to be considered for authorization, pheasant releases are limited to 200 birds per site and all releases <u>must</u> be verified by a department employee at the time of release". Jeff, for you to say none of the issues raised by me were in violation of the law is absurd. To prove my point I am enclosing a document written by former UGBHE administrator John McCarthy in which he lists eight reasons why FWP failed to comply with the law. He concluded by saying these complaints prompted MFWP to inspect sites where the

Plentywood pheasant producers were not in compliance with rules and regulations of the UGBHE program. It <u>was not</u> the fault of Mr. Wentland or the producers who raised and released the pheasants. It was caused by the FWP bureaucracy in Helena by failing to provide Region 6 with a copy of the law and rules just like FWP did in Region 7.

Question 3. Why did UGBHE program administrator John McCarthy and attorney Jack Lynch make a \$50,000 settlement to the individuals who raised and released the pheasants? You stated the issue of the settlement was a result of mediation. The director at the time, Pat Graham, was the person who authorized the settlement, not John McCarthy or Jack Lynch. I can provide proof of that. The mediation process was held in a motel room in Great Falls and those present were John McCarthy, Jack Lynch, Mike and Sherry Sandoval, Leroy and Colleen Sorenson and their attorney Laura Christoffersen of Culbertson. I don't know who provided you with the information you used because it is not correct.

It appears the reason John McCarthy and Jack Lynch made the settlement is the fact that John McCarthy overreacted by reducing the number of bird that Sandoval and Sorenson could release to the point (and I have the records) where additional ordered birds had to be intermingled with older birds and the death rate was tremendous. It appears that this was another attempt by FWP to discredit the pheasant release program, because to prove their point, they had Mark Henckel, an outdoor reporter who is an ally of FWP, come to Plentywood, take pictures and publish them in the Billings Gazette. It also appears that another reason John McCarthy and Jack Lynch made a \$50,000 out of court settlement was to avoid a lawsuit that would expose FWP's failure to abide by the UGBHE laws and rules and win the case.

Question 4. Were the Russells told that they were to contribute 25% of the costs of the project? You stated the administrative rules in effect at the time of negotiating the two contracts with the Russells 12.9.705(1) did not require a specific cost share from landowners. Therefore a 25% cost share was not negotiated with the Russells. What about sub-sections (2) and (3) which state: "The department may compensate individuals and organizations for upland game bird habitat enhancement accomplished through a conservation easement or through a lease, up to the fair market value. (4) For qualified upland game bird habitat projects sponsored by individuals or organizations the department may reimburse the sponsor for up to three fourths of the costs of the project. I would like to point out that the 1991 rules are identical to those in 1989. Section 87-1-248 MCA: Qualification of Upland game bird enhancement projects. (1) a project eligible for funding under the pheasant release program must contain the proper combination of winter cover, food, nesting cover, and other pheasant habitat components determined

necessary by the department to provide a viable permanent pheasant population. (2) Habitat enhancement efforts <u>must</u> include assistance to applicants in the establishment of suitable nesting cover, winter cover, and feeding areas through cost-sharing programs leases and conservation easements. Jeff, that proves you wrong again.

I also want to point out to you that in a letter Ron Aasheim wrote to Rep Jim Shockley on your behalf dated June 2, 2002 he stated that the Russells contributed \$76,634 of their money to the \$252,526 contract. You stated therefore a 25% share was not negotiated with the Russells. Who should I believe? You or Mr. Aasheim? I am enclosing a balance sheet that show the Russells received \$55,544 for family activities. I am enclosing page 30 and 31 from the December 2000 audit and what is said about the ways FWP mismanaged the UGBHE contracts negotiated by FWP with landowners. The audit also stated 54% of contracts were not posted.

Question 5. "Would you have Director Haggener and Wildlife administrator Don Childress and their staff members do an evaluation, which is required in Section 87-1-247, explaining what FWP accomplished after spending \$9 million over an eighteen year period?". Your answer was "Section 87-1-247 is a reference to the allowable use of administration funds and not to a required evaluation of the program as suggested in Mr. Smith's letter". You are wrong in that statement because 87-1-247 authorizes use of funds (1) not more than 10% of funds prior to 2001 and after that 15% of the money generated under 87-1-247, may be used by the department to (a) prepare and disseminate information to landowner concerning the upland game bird enhancement program; (b) review potential upland game bird release sites; (c) assist applicants in preparing management plans for project areas; and (d) evaluate the upland game bird enhancement programs. (2) The remainder of the money raised must be used for releasing upland game bird in suitable habitat. (3) (a) At least 10% of the fund collected under 87-1-246 must be set aside each fiscal year for expenditures related to upland game bird releases. How can you say an evaluation is not required?

I am enclosing a copy of the minutes of an EQC hearing held in Helena on September 13, 2002, at which time several questions were asked and several comments were made regarding the management of the UGBHE program. I will begin on page 14, paragraph 3 when you stated, "MFWP likes the program and believe it has benefits. However the MFWP staff doesn't have the necessary time for this program. This is a reality." That is where you failed to carry out your responsibility as director to see that the department had proper staffing to properly manage all the requirements in the UGBHE law and rules. Funding was not a problem. You continued to say they have taken a substantial amount of time to turn the program around, in addition to that they have hired a FTE to look at the UGBHE program. According to the minutes you were referring to Jeff Gross, who I

understand left the employment of FWP a few months later. I am sure he realized there was no way he could fix the mess that FWP created with their mismanagement of the program even after he told Rep. Clark he would get the program going in a positive fashion.

On page 15 paragraph 4, Craig Roberts made the following statement: "They have also put in some upland game bird winter cover shelter belts. They had put those in themselves at the cost was around \$7000." How ironic, according to copies of contracts which I have,091-549-635-637 and 879, the total is \$31,960. However it did include a with contract 10% gift to the Fergus County Pheasant Forever organization. On page 16 paragraph 5, as with relationship will there be if the money is not being spent on habitat. You said that he doesn't imagine that the hunters will be real happy about it. They would also have to deal with the legislative statutes that say that the department can't accrue more than two years worth of income into a certain account. If that is the case you either lied or are in violation of the statutes you referred to because according to the Montana Fiscal Division as of July 1, there is \$2.8 million unspent balance in the UGBHE account.

Page 17 paragraph 1 Scn. Ekegren asked if the rancher makes money of this proposition. (referring to the Russell contracts). You said there is a cost sharing account. Doesn't this contradict what you said earlier in answering question 4? Rep. Mood asked if the program will be better because of the scrutiny or will it be worse. You said it is better now and the intent is that it will be better in the future. This causes me to ask several questions that I would have brought to the council if it hadn't been terminated.

I will begin with your June 21, 2006 response to my May 5, 2006 letter which I had sent to the UGBHE Rick Northrup.

1. You stated, "Rick Northrup provided me and other council members with a copy of the December 9, 2005, minutes. It took several telephone calls and over five months to finally get that copy which shows a lack of cooperation from the beginning". Jeff, you and Craig Roberts should know that the minutes of the December 9 council meeting were only in draft form and wouldn't become official until confirmed at a following meeting. After reviewing the minutes and listening to the tape, I had prepared additions and corrections concerning the discussion at the December 9 meeting which I was going to present at the next meeting to make the minutes official. As you are aware, I was asked by Bruce Nelson, Governor Schweitzer's Chief of Staff to serve on the three member council. I said I would if I could serve as chairman being I was the sponsor of the legislation that created the UGBHE program. He agreed to that. I would like to know if

you had the approval of the Governor's office prior to your decision to terminate the three member council?

- 2. You also said that FWP anticipates, with some additional improvements, the program will again increase in popularity with field staff, landowners, and hunters. Would you explain to me why all of a sudden you and your staff which had 18 years to make these improvements before are mentioning that now?
- 3. You said FWP will be installing new program signs on each of the active contracts for habitat work and pheasant releases by September 1, 2006. On October 23 and 24, 2006 I visited several active UGBHE sites in regions 6 and 7 and none had the signs that you mentioned. What I found was overgrazed pastures and dead trees because of poor maintenance. I also called reliable persons and asked them to check and see if FWP had posted new signs in the Russells \$252,526 project site, and they informed me that no new signs had been posted as you and Mr. Northrup had promised. I am not blaming the Russells or the other landowners whose project sites were not posted. That is FWP's responsibility. This is nothing new. The December 2000 audit found that 54% of the project sites were never posted so the hunters would have access. The hunters should be outraged at the way FWP mismanaged the access issue. If a figure are not posted.
- harlens are devide access You said FWP agrees with your thoughts that the UGB Citizen's Advisory Council, chaired by Craig Roberts did provide many good recommendations. You and Mr. Roberts had nearly two years to prepare legislation and present it to the 2005 legislative session. Why wasn't this done? I have a copy of the Upland Game Bird Citizen's Advisory Council's recommendations dated June 26, 2003 that was sent to you and Don Childress. On page 1, paragraph 5 states "Respectfully, we would like to see evidence that FWP consider these recommendations in the new 10 year plan. We would appreciate a brief response to these recommendations from you, Don Childress or from VI. Staffing Recommendations: A(1) The CAC the yet-to-be hired plan writer. recommends that FWP create a Helena based, fulltime upland game bird biologist staff level position dedicated 100% to upland game bird management. B(1) The CAC recommends FWP create five new positions called "Upland Game Bird Coordinators" stationed in the following locations. As you are aware this would have taken legislative action. I have a copy of the Natural resource sub-committee hearing which reviewed and

set the FWP budget for the 2005 biennium. I am exclosing a little hetch total total from ht A ancient Bong. Sternlerg verifing from legislate action fection. There was no mention by FWP regarding the UGBHE program to that sub-committee. Jeff, why did you say at the EQC hearing, "The department likes the program and believes that it has benefits. However the DFWP staff doesn't have the necessary time for this program. This is a reality". Why didn't you take this opportunity to suggest

addition staffing so FWP could have operated the UGBHE program properly as the law and rules require?

- 5. Regarding John McCarthy, you mentioned that he retired in December 2002. I and others were told by a reliable source that John McCarthy committed malfeasance of office. Are you aware if that is true?
- 6. The last comment in your letter states, "The UGBHEP has changed considerably since its first 13 years of operation. There is no doubt that mistakes were made and many parts of the program and its operation needed substantial improvements. Thanks to you and others, the program has improved with clear rules and processes for evaluating and selecting projects, stipulating access requirements, making payments, informing hunters of projects, project monitoring and evaluations etc.. I was promised by Governor Martz when she appointed you to replace Pat Graham as director, that things would change. You said that same thing when the Upland Game Bird Citizen's Advisory Council was appointed, and when the Governor appointed the Private Lands/Public Wildlife Council. I have yet to see any constructive accomplishments regarding the UGBHE program which I have pointed out in this letter and my May 5, 2006 letter. I am tired of excuses, false and misleading statements and unkept promises. What scheme are you going to come up with next in an attempt to convince us that things will change?

I am enclosing an article which appeared in the Billing Gazette in September 2006 written by the Pheasants Forever organization which listed the pheasant harvested in three states in 2005. The article began by saying the 2006 hunting season was a year to remember all across the upper Midwest. South Dakota harvested 1.9 million roosters, North Dakota harvested 809,000 and Montana harvested 140,000 pheasants. On November 28, 2006 I called the South Dakota Fish and Game Department and visited with Steve Thompson who gave me the following information. In 1999 game preserves released 190,708 pheasants and sold 156,298 resident and non resident licenses. In 2003 pheasant released: 269,173, licenses sold: 161,938. In 2005 pheasants released: 326,681. Licenses sold 174,000. Mr. Thompson said that hunters contribute hundreds of millions of dollars to South Dakota's economy which is spread throughout the state. The Pheasant forever article ended by saying the secret to South Dakota's bird numbers is the 1.4 million acres in the Conservation Reserve Program.

Montana has almost twice that number of acres in that program and FWP had spent an additional \$7,593,405 for habitat projects; \$1,534,075 for administration and overhead and another \$1.1 million of Federal Pittman-Robertson fund for a total of \$10,230,880 and only \$512,996 for pheasant releases. These figures are from 1988 through 2005, all taken from FWP own records.

At I'm' P had made improvements are presorabled in the law Montana Could have reaped asses of the benifity SD and WD hads

In 1987, the year the UGBHE program became effective FWP sold 40,600 resident and non-resident upland game bird licenses. In the following 18 years license sales averaged 38,435 per year. This should prove how FWP failed to manage the UGBHE program as specified in the law. 87-1-246 MCA states "The amount of money specified in this section from the sale of each hunting license listed must be used exclusively by the department to preserve and enhance upland game bird populations in accordance with 87-1-236 through 87-1-249. What a horrible record and mismanagement of public funds.

I recently received a draft proposal dated September 12, 2006 by the Private Land/Public Wildlife Council which was recently appointed by Governor Schweitzer, and I am sure with your blessing. I want to refer to number 3. This Council proposed to support legislation modifying FWP Upland Game Bird Habitat Enhancement program to terminate pheasant release provisions and use that funding to enhance habitat. For that proposal to be adopted by the council members they had to be unfamiliar with the UGBHE program, were ill-advised or lacked creditability for several reasons:

- 1. In fiscal year 2003 FWP spent \$142,126 for habitat purposes such as range management, shelter belts, food plots etc, and spent \$24,280 for administration.
- 2. In fiscal year 2004 FWP spend \$33,438 for habitat and spent \$26,203 for administration.
- 3. In fiscal year 2005 FWP spent only \$13,841 for habitat and spent \$20,583 for administration which was nearly twice as much as the cost of habitat. If the pheasant program is terminated as you can see, there is no need for the UGBHE program.
- 4. According to the legislative fiscal division on July 1, 2006 FWP had a \$2.8 million unspent balance in the UGBHE account. The license fees collected by the UGBHE program averages approximately \$690,000 per year. I would suggest that if they want to be constructive, this council should question what has been accomplished over the past 18 years. I can assure them that if the fees aren't increased for Block Management that program will cease to exist in a few years. A am enclosing a litter

I am enclosing a letter I sent to Don Childress dated April 22, 1992 expressing my concerns of the management of the UGBHE program We have come full circle over the past 18 years and spent over \$10 million of public funds and I have asked what has been accomplished. Now I am asking for answers.

I am enclosing a copy of the first block management program in the state to show you and your staff that all good things don't occur in the FWP bureaucracy in Helena. In 1983, thirteen other landowners and I organized the Sandhills Block Management area which we presented to Director Jim Flynn and it was adopted by the FWP commission on August 4, 1983. It took FWP 13 years to recognize that it was a good program and now FWP would like to take credit as if it was their idea. I apologize for the length of this

letter. Jeff, this is the last correspondence you will receive from me which has been going on for six years to no avail. I am requesting that you, Governor Schweitzer, FWP Commissioner, EQ and legislators who receive this correspondence join me in requesting an audit by a certified public accountant, whose selection is subject to my approval. I feel I have that right under the federal and state information act. I want accountability. I expect real answers or I'll have testimony under oath until I get them.

I wanted to show you and others I have made every effort to resolve this issue in regards to the UGBHE program to no avail. I feel the next step to resolve this issue is for you. Governor Schweitzer, FWP commission, EQC which has oversight responsibility and elected officials by their oath of office, to join me in requesting an audit by a certified public account.

I want to close by saying that I don't believe you can honestly respond to the issues I have raised without admitting that drastic changes must be made. All I am asking for is accountability. If any one who receives this letter has questions, please call me at 406 483-5484.

Sincerely,

Ed B. Smith

Ed B. Smith 288 Sandhills Rd. Dagmar, MT 59219

xc. Governor Schweitzer
Todd Everts, EQC
Steve Doherty, FWP Commission Chairman
Scott Seacat, Legislative Auditor
Craig Roberts, Council Member
Senator Greg Barkus
Senator Keith Bales
Senator IocTropila, Senate Legislative Committee Chair.
Rep. Rick Ripley, Natural Resource Sub-committee Chair.
Rep. Debbic Barrett EQC
Senator Jim Elliott, EQC
Charles Johnson, Associated Press

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P. O. Box 200701 Helena, MT 59620-0701 406-444-3186 FAX:406-444-4952 Ref: DO019-07 January 9, 2007

Ed B. Smith 288 Sandhills Road Dagmar MT 59219

Dear Mr. Smith:

This letter is in response to your letter dated December 12, 2006. Many of the issues you raise in the letter have been addressed and answered at least once in past correspondence. As you know, many necessary programmatic improvements were made in 2001-02 with the adoption of new ARM rules and use of a new policy manual. Montana Fish, Wildlife & Parks (FWP) believes opportunities for improving the Upland Game Bird Enhancement Program (UGBEP) remain, perhaps substantial improvement in some areas. The UGBEP coordinator has indicated that he intends to make additional changes to the program over the next two years that will further strengthen accounting, monitoring, consistency, and delivery of projects. As with most programs, UGBEP has changed and improved considerably from its inception and should continue to adapt as new needs arise.

Regarding the new signs for habitat and pheasant release projects, FWP committed to having the signs up prior to the 2006 upland game bird hunting season. Confirmation from regional staff indicates that this has occurred. In your phone conversation with the program coordinator, you had specifically mentioned two project sites in the Plentywood area that were not signed. This past week, the field biologist there made a special trip to check those two project sites and found signs where he had erected them last summer. Of course, signs will "disappear" over time and FWP will be looking for and replacing them as scheduled project monitoring occurs.

Regarding recommendations made by the UGB Citizen's Advisory Council, chaired by Craig Roberts, FWP has acted on many of the recommendations made by that Council. The program coordinator as well as the Director's Office have both provided you with correspondence that enumerates a host of accomplishments that correspond to the Council's recommendations. Specific to staffing concerns, FWP developed a contract with Pheasants Forever to hire a full-time habitat specialist for working with landowners in the Sidney area developing pheasant habitat projects. That individual has been on location for about three months. Depending on the success of this contract, FWP may expand to another area further west in Montana.

You expressed concern in your letter over the Private Lands and Public Wildlife Council (PL/PW) recommendation and corresponding proposed legislation to "terminate pheasant release provisions." It is important to note that neither the PL/PW recommendation nor the proposed legislation as

Smith – DO019-07 January 9, 2007 Page 2 of 2

currently drafted serves to eliminate the pheasant releasing component of UGBEP. The recommendation and proposed legislation only serve to eliminate the required expenditure currently in statute (MCA 87-1-247(3)). From 1988 through 2001 only 288,056, were spent with pheasant subspace. That was the reason for 5B304

Your letter states that FWP only spent \$13,841 in fiscal year 2005 for habitat projects. That was the amount spent in fiscal year 2005 as of December (prior to the 2005 Legislative Session). FWP actually spent \$156,959 on habitat projects over that complete fiscal year. This is less than revenue entering the program. The Wildlife Division anticipates, however, that as additional program improvements are completed and the Division increases its emphasis of UGBEP with landowners and organizations (e.g., Pheasants Forever and National Wild Turkey Federation), the program will again grow in popularity and accomplishments.

UGBEP has now been in place for about 19 years. In past correspondence and over multiple conversations it has been conveyed to you that UGBEP has been improved considerably through the recommendations of yourself, auditors, legislators, and others. UGBEP is an important asset to Montana and remains a high priority for FWP.

Sincerely,

M Jeff Hagener

Director

c: Bruce Nelson

406-483. 5484

Senator Lane Larson 1417 Cedar Canyon Road Billings, MT 59191

Dear Senator:

After receiving a copy of SB17, a legislative proposal by you to eliminate the pheasant release portion of the Upland Game Bird Enhancement law, this causes me concern.

I want to let you know it was I who sponsored the legislation that created the UGBHE law 87-1-246 through 87-1-250 MCA. For that reason, I would appreciate it if you would answer the following questions.

- 1. Are you familiar with that law and its purpose?
- 2. Do you hunt upland game birds, if so where?
- 3. What caused or influenced you to request this legislation?
- 4. Are you familiar with the Block Management Program?

Legislative Auditor Scott Seacat, in three previous audits, recommended that FWP coordinate these two programs, which FWP failed to do. The purpose of those two programs was to provide hunter access on UGBHE project sites and provide adequate habitat to increase the upland bird population, especially pheasants.

The Smith family has raised and released pheasants for many years with excellent success. Our farm and ranch operation has also been enrolled in the block management program since 1983. Are you a member of a sportsman organization in the Billings area or know of one because I am preparing information that I feel you or an organization would be interested in receiving?

If you will answer the above questions and review the information I will be sending you, I am sure you will know why I and others will be opposing SB17.

Sincerely,

Ed Smith

Ed Smith 288 Sandhills Road Dagmar, MT 59219 406-483-5484

enclosures

Senter Larson. TAX 2-6-07 I would like to know if 7 w finformed you that they had a \$2.8 million surports falance in the WBBHE account? I and others plan to attending the hearing to SB19. 11 1 Thank gra &25.



Upland Game Bird Citizen's Advisory Council

TO:

Jeff Hagener, Director, Montana Fish Wildlife and Parks

FROM:

Craig Roberts, Upland Game Bird CAC (see list at left)

SUBJECT:

Consensus Recommendations

DATE:

June 26, 2003

CC:

Don Childress, Wildlife Division Administrator; and all

CAC members

Craig Roberts, Chair Lewistown

Ben Deeble Missoula

Robert Eng Bozeman

Nick Forester Fort Smith

Richard Kerstein Scobey

Marty Lau Great Falls

Dale Manning Missoula

Ellis Misner Fairfield

Pat Pierson Red Lodge

Dale Tribby Miles City

Ben Williams Livingston

Lowell Young Plentywood

Here are our recommendations on upland game bird management. The charter you gave us last December was to "advise the Wildlife Division of Montana Fish Wildlife and Parks on issues and questions regarding upland game bird management in Montana" as the agency begins to develop a new 10-year plan for upland game bird management.

We met five times to conduct a deliberate, mutual education process, and develop recommendations on habitat enhancement, season setting, population management research, staffing and partnerships related to the implementation of the forthcoming, Upland Game Bird Management Plan, and other issues related to pen-reared releases and wild bird trapping and transplants.

Although Fish Wildlife and Parks did not charge us with reaching consensus, we did (with one exception we report to you here on the daily bag limit for partridge). We decided what we say in a unified way will carry the most weight and influence. Our intention was and is to be constructive, bold, and clear in our recommendations on how to manage upland game birds over the next decade in Montana.

We appreciate the opportunity you provided us to do this work together, and to have served as contact points for others who are also interested in the future of upland game bird management in Montana. CAC members have had diverse and sometimes conflicting interests in several key areas over the past 6 months of deliberations, but our recommendations reflect the extensive common ground we found.

For any diverse group, the challenge in making consensus recommendations is to avoid platitudes and highlight points of agreement that can be <u>used</u> as a practical matter of implementation. We believe we have done that. Respectfully, we would like to see evidence that Fish Wildlife and Parks considers these recommendations in the new, 10-year plan. We would appreciate a brief response to these recommendations from you, Don Childress, or from the yet-to-be hired plan writer. We are also available to be reconvened to help orient the new upland game bird planner(s) once that position is filled. Thanks again.

- 6. Collect data on the number of turkey tags sold for the spring versus fall hunting season and hunter success for each specific season.
- 7. Conduct a literature review and study on the survival of pen-raised pheasants. Present finding in a final report, available to the public.
- 8. Conduct field based research related to season length pertaining to compensatory mortality. Past research is 30 to 50 years old and more current research is needed.

B. Public Survey Needs

- 1. Conduct landowner surveys to determine their "tolerance levels" of upland game bird hunters.
- 2. Conduct a survey of upland game bird hunters to determine their willingness to accept a license fee increase. not needed: The four 23 million supports

 4.8845 program or touch.

VI. STAFFING RECOMMENDATIONS

A. Upland game bird biologist 100% to upland game bird management.

1. The CAC recommends that Fish Wildlife and Parks create a Helena-based, full-time upland game bird biologist staff-level position dedicated 100% to upland game bird management

B. Five new positions: upland game bird coordinators in the regions

- 1. The CAC recommends Fish Wildlife and Parks create five new positions called "Upland Game Bird Coordinators" stationed in the following locations:
 - □ Regions 1 and 2 (combined)
 - □ Regions 3 and 5 (combined)
 - □ Region 4
 - □ Region 6
 - □ Region 7

Rationale:

☐ The CAC recommends these positions be distributed according to bird populations



NR Bird License Sales for Following Counties:

Year	Sheridan	Doniele	.
1987	315	Daniels	Roosevelt
1988	315 361 455.00 11	1,653 ¹⁵ 56	200
1989	357 / S5.		172 staint of 182 #21,642,00
	357	45	182 #31.642.12
1990	432	38	162
1991	448	59	167
1992	448 584, \$\frac{4}{552}, \$\fr	67 ^{0.2} 76	212
1993	794 552	71	275
1994	696	69	320
1995	680	49	319
1996	673	99	346
1997	474	83	266
1998	440	67	280
1999	416	44	210

In 1989, 7,214 pheasants were released in Sheridan County at a cost of \$21,642.00. When I showed this to Director Jeff Hagener his comment was Just a Coincidence

No pheasants were released in Daniels County.

FWP spent \$190,157.00 of pheasant enhancement funds for habitat from 1987 to 1999. In 1987 56 non-resident license were sold in Daniels county, at the same time non-resident licenses sales has dropped to 44 in 1999.

In Sheridan County 315 non-resident licenses were sold in 1987, five years later in 1993, 794 non resident licenses were sold. This proves that raising and releasing pheasants is a very important part of the pheasant enhancement program. I have hunted in Sheridan County for over 65 years from a time when there were no pheasants to 1991 to 1996 when there were more pheasants than what I had seen in a lifte time.

Liene sales from 1989 through 1999 Therebon Creaty 1606 inchesses Doniele County 83 melicas

Strong pheasant season torecast

Pheasants Forever

The 2005 pheasant hunting season was a year to remember across the upper Midwest. South Dakota maintained its hold as the "Pheasant Capital" with an estimated harvest of more than 1.9 million roosters, a 40-year high. lowa, North Dakota and Kansas all checked in with big 800,000bird totals. Nebraska recorded its best harvest in five years, and Minnesota enjoyed its best fall in 40 years.

Unfortunately, a wet and cool spring coupled with a summer drought has prevented another nild winter from translating into the elusive monster pheasant year hunters have been awaiting. Nevertheless, much of the range zill see similar pheasant totals to the excellent harvests enjoyed in 2005. The reason for the upswing in pheasant numbers is simple habitat. More habitat acres are enabling pheasants to take . Ivantage of favorable sweather conditions. However, 2007 is a critical year for pheasants; quail and all hunters. The 2007 Federal Farm Bill will be debated over the coming year. Within the Farm Bill is the 39.2 million-acre Conservation Reserve Program that is largely responsible for the birds we will enjoy chasing this

So, this November when your mind is on hunting, don't forget

Note: Always consult state hunting regulations and season dates before taking to the field. Montana's pheasant opener is scheduled for Oct. 7. Wyoming has multiple pheasant seasons with the first one opening on

Here's the 2006 regional pheasant forecast. For a complete list, 130 www.PheasantsForever.org

Idaho: Last year, hunters saw an improved harvest nearing 100,000 roosters. Thanks to good winter and spring weather conditions, Idaho pheasant hunters have a similar season in store. Landowners are also reporting a

year's bumper 44,000 Hun haivest. State biologist Don Kemner credits the improved bird numbers to CRP acres in the southeast and a new partnership with NRCS that has resulted in 10,000 new acres enrolled in Federal farm programs. Kemner is also excited about the potential for improvements habitat 100,000 new CREP acres on the Eastern Snake River Plain, The Lewiston area; and the southern region of the state from Weiser to Twin Falls and Pocatello to Grace hold the most roosters. Season opener: Multiple

Montana: A mild winter brought a lot of birds through to a moist spring with good nesting The summer's conditions. drought is not anticipated to have a negative impact on numbers. Overall, bird hunting in Montana should be slightly better than last year. A typical Montana hunting season boasts a mixed bag with 140,000 pheasants harvested, 60,000 Hungarian partridges bagged, and 70,000 sharp-tail grouse shot. CRP fields adjacent to small grain fields provide the best opportunities, especially in Eastern Montana around Sidney, and along the Milk River, in the Mission Valley, and in the Yellowstone valley. Season opener: Oct. 7

North Dakota: South Dakota> doesn't have the monopoly on pheasants, just ask their neighbors to the North. In 2005, the estimated harvest topped 809,000 roosters in NoDak. According to state biologist Stan Kohn, last year was the bestpheasant season since the Soil Bank Era more than 40 years ago. The big news is that this year could be even better. Along with more than 3 million acres of CRP habitat, winter weather plays a key role in North Dakota, Those North Dakota roosters were blessed with an extremely mild winter. In fact, January 2006 was ing season with good conditions across much of the state. However, portions of the southcentral and southwest were extremely dry this summer and may have affected brood size to a small degree. Although the August roadside counts are still being tabulated, Kohn estimates that the birds and brood numbers could be up by as much as 30 to 50 percent based on the Interstate 94 with the southeastcorner and portions of the south

bird populations. Season opener: Oct. 14

South Dakota: Pheasant hunters everywhere will be excited to hear that "The Pheasant Capital" will again live up to its nickname. Winter began with an ice storm in late November that had hunters and state biologists concerned. Fortunately, the cold snap was short-lived, the ice melted, and a mild winter lasted the remainder of the season. Spring nesting conditions were favorable with ideal dry, warm conditions. The stage was set for the monster pheasant season of

the century when a summer drought hit the central and northcentral part of the state. The nearrecord precipitation lows impacted brood sizes and chick survival, resulting in the state's summer brood survey showing a 6 percent drop in bird numbers from 2005. In essence, South Dakota has about the same pheasant numbers as last season, which happened to set a 40-year high harvest with more than 1.9 million roosters bagged. Incidentally, that harvest of nearly 2 million birds is double the size of any other state's annual pheasant harvest. There is no

secret behind South Dakota's bird numbers — 1.4 million Conservation Reserve Program acres. Reauthorization of CRP in the 2007 Farm Bill is critical for South Dakota's pheasant population and the tourism industry built around the state's favorite bird, Season opener: Oct. 21

Wyoming: Drought conditions hurt production this year. Look for Goshen County to provide the best bird numbers with Big Horn, Sheridan and Washakie counties also providing pheasant hunting opportunities. Season opener: Multiple

And the each Runting preserve one of the warmest on record. A Phodosias resulting each year mild winter led to excellent carryover coming into a spring nest- I have document that show 80 to percent of banded pheacant are harvested each year bone practices Client 200. per harter por day. In 2006 a Collegornia bunter hunted I day a one bagged har I burge on the preliminary data. The state's best pheasant range exists south or Semille Co BM & Sandowners curity 80. 720 PBBRINGE

OFFICE OF THE GOVERNOR

STATE OF MONTANA

JUDY H. MARTZ GOVERNOR



STATE CAPITOL PO Box 200801 HELENA, MONTANA 59620-0801

August 1, 2001

This letter me in reappoint to may letter dated March 19, 2001

Ed B. Smith 288 Sandhills Road Dagmar, MT 59219

Dear Ed:

As you know, I am aware of the situation you wrote about as it pertains to Montana's Fish, Wildlife & Parks (FWP), and the Legislative Audit Division has worked with FWP to get a corrective action in place. I understand you have been in contact with Jeff Hagener and others at FWP regarding the Upland Game Bird Habitat Program. Director Hagener informs me that there have been problems in the past, and he is committed to getting those problems corrected. We now must give the process some time for implementation. ARM rules are currently being finalized to enact successful 2001 legislation as it pertains to Upland Game Bird Habitat.

Thank you for your continued interest in this issue. Your comments have been forwarded to FWP for inclusion in the rulemaking process.

Sincerely,

JUDY MARTZ

Governor

This was to years ago. Very lettle has changed

How much longer will it take

Director Hagener to get his

act together?